

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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SAMAN CHUBINEH, :

Plaintiff, : Case No.

- against - :

ENHANCED RECOVERY COMPANY, LLC, :

Defendant. :

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NOTICE OF REMOVAL

Defendant, Enhanced Recovery Company, LLC (“ERC”), by and through its undersigned counsel, hereby files its Notice of Removal of this action from the Supreme Court of the State of New York, County of Erie, to the United States District Court for the Western District of New York, and shows the Court as follows:

1. On November 12, 2014, Plaintiff filed a civil action in the Supreme Court of the State of New York, County of Erie, styled *Saman Chubineh v. Enhanced Recovery Company, LLC*, Index No. 813113/2014.

2. On December 1, 2014, ERC received a copy of the Summons and Complaint in the above-described civil action via mailed service to ERC’s designated agent for service of process, who thereafter provided a copy of said process to ERC. This Notice of Removal is being filed within thirty days of ERC’s receipt of Plaintiff’s Summons and Complaint and is timely and proper pursuant to 28 U.S.C. § 1446(b)(1).

3. Pursuant to Local Rule 81(a)(3)(A), an index of all documents filed and/or served in the state court is attached as Exhibit “A.”

4. True and legible copies of all process, pleadings, orders, and other papers or exhibits of every kind, on file in the state court and known to have been served by, or upon ERC,

are attached hereto as composite Exhibit “B,” pursuant to 28 U.S.C. § 1446(a) and Local Rule 81(a)(3)(B). Defendant is not aware of any further proceedings in the above-described civil action.

5. This Court possesses original jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as this civil action involves a federal question.

6. Plaintiff alleges that ERC violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”). The FDCPA arises under the laws of the United States. Therefore, pursuant to 28 U.S.C. § 1441(a), those claims are removable to this Court.

7. Pursuant to 28 U.S.C. § 1446(d), ERC will promptly file the Notice of Filing Notice of Removal attached hereto as Exhibit “C,” with a copy of this Notice of Removal, with the Clerk of the Supreme Court in and for the County of Erie.

8. ERC has complied with all conditions precedent to the removal of this action.

Certificate of Compliance with Local Rule 81(a)(4)

The undersigned certifies that a copy of this Notice of Removal and all attachments thereto have been provided to all other parties to this action.

Dated: New York, New York
December 29, 2014

SMITH GAMBRELL & RUSSELL LLP



By: _____
John G. McCarthy

Attorneys for Defendant
1301 Avenue of the Americas, 21st Floor
New York, New York 10019
(212) 907-9700

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2014, a true and correct copy of the foregoing Notice of Removal was served via first class mail, postage prepaid on counsel for the plaintiff addressed as follows:

Cyrus B. Chubineh, Esq.
2655 Millersport Highway #714
Getzville, New York 14068

A handwritten signature in blue ink, appearing to read "John G. McCarthy", is written above a horizontal line.

John G. McCarthy